

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

CONSOLIDATED INDUSTRIES, LLC)
d/b/a WEATHER KING PORTABLE)
BUILDINGS,)
Plaintiff,)
v.)
JESSE A. MAUPIN, BARRY D.)
HARRELL, ADRIAN S. HARROD,)
LOGAN C. FEAGIN, STEPHANIE L.)
GILLESPIE, RYAN E. BROWN, DANIEL)
J. HERSHBERGER, BRIAN L. LASSEN,)
ALEYNA LASSEN, and AMERICAN)
BARN CO., LLC,)
Defendants.)

Civil Action No. 1:22-cv-01230-STA-jay

Chief Judge S. Thomas Anderson

PLAINTIFF'S MOTION FOR SANCTIONS

Pursuant to Fed. R. Civ. P. 16(f), 37(b), and 37(e) and the Court's inherent power, Plaintiff respectfully request that the Court sanction Defendants for discovery abuses, including entry of default, monetary sanctions, and adverse inference jury instructions. As grounds for this motion, Plaintiff submits that Defendants failed to produce basic documents responsive to Weather King's written discovery (despite the Court's admonition), misrepresented to the Court and to Weather King why responsive documents were not produced, destroyed evidence, improperly interfered with Weather King's subpoenas to third parties, and provided false statements in their discovery responses. In addition, the Court contemplated that Plaintiff would have the opportunity to recoup the expenses it incurred in connection with the Court-ordered forensic examination. *See* 11/28/23 Agreed Order Granting Motion to Compel Forensic Examination, Doc. 121, ¶ 15.

In support of this motion, Defendants have filed herewith a memorandum of law and rely on the following exhibits:

1. Excerpt of Plaintiff's written discovery to Defendant Jesse Maupin, filed herewith as Exhibit 1;
2. Excerpts of Defendant Jesse Maupin's responses to Plaintiff's written discovery, filed herewith as Exhibit 2;
3. Excerpts of Defendant Barry Harrell's responses to Plaintiff's written discovery, filed herewith as Exhibit 3;
4. Defendant Adrian Harrod's responses to Plaintiff's written discovery, filed herewith as Exhibit 4;
5. Defendant Logan Feagin's responses to Plaintiff's written discovery, filed herewith as Exhibit 5;
6. Excerpts of Defendant Stephanie Gillespie's responses to Plaintiff's written discovery, filed herewith as Exhibit 6;
7. Excerpts of Defendant Ryan Brown's responses to Plaintiff's written discovery, filed herewith as Exhibit 7;
8. Excerpts of Defendant Daniel Hershberger's responses to Plaintiff's written discovery, filed herewith as Exhibit 8;
9. Excerpts of Defendant Brian Lassen's responses to Plaintiff's written discovery, filed herewith as Exhibit 9;
10. Excerpts of Defendant Aleyna Lassen's responses to Plaintiff's written discovery, filed herewith as Exhibit 10;

11. Excerpts of Defendant American Barn Co., LLC's responses to Plaintiff's written discovery, filed herewith as Exhibit 11;
12. March 24, 2023 letter from Plaintiff's counsel to defense counsel, filed herewith as Exhibit 12;
13. April 14, 2023 letter from Defendants' counsel to Plaintiff's counsel, filed herewith as Exhibit 13;
14. April 19, 2023 letter from Plaintiff's counsel to defense counsel, filed herewith as Exhibit 14;
15. May 5, 2023 letter from Defendants' counsel to Plaintiff's counsel, filed herewith as Exhibit 15.
16. Declaration of David L. Johnson, filed herewith as Exhibit 16;
17. January 12, 2022 text correspondence obtained from the forensic examination stamped ABCO_47162, filed herewith as Exhibit 17;
18. January 12, 2022 text correspondence obtained from the forensic examination stamped ABCO_51600, filed herewith as Exhibit 18;
19. April 1, 2022 text correspondence obtained from the forensic examination stamped ABCO_16041, filed herewith as Exhibit 19;
20. March 3, 2022 text correspondence obtained from the forensic examination stamped ABCO_33315, filed herewith as Exhibit 20;
21. June 4, 2022 text correspondence obtained from the forensic examination stamped ABCO_34196, filed herewith as Exhibit 21;
22. May 31, 2022 text correspondence obtained from the forensic examination stamped ABCO_5054, filed herewith as Exhibit 22;

23. Excerpts of the Deposition of Jesse Maupin and American Barn Co., LLC, filed herewith as Exhibit 23;
24. Excerpts of the Deposition of Barry Harrell, filed herewith as Exhibit 24;
25. Excerpts of the Deposition of Adrian Harrod, filed herewith as Exhibit 25;
26. Excerpts of the Deposition of Logan Feagin, filed herewith as Exhibit 26;
27. Defendant Harrell's 3d supplemental discovery responses, filed herewith as Exhibit 27;
28. January 28, 2022 text correspondence obtained from the forensic examination stamped ABCO_15663, filed herewith as Exhibit 28;
29. January 25, 2022 text correspondence obtained from the forensic examination stamped ABCO_56138, filed herewith as Exhibit 29;
30. February 22, 2022 text correspondence obtained from the forensic examination stamped ABCO_55802, filed herewith as Exhibit 30;
31. May 12, 2022 text correspondence obtained from the forensic examination stamped ABCO_4939, filed herewith as Exhibit 31;
32. January 18, 2022 text correspondence obtained from the forensic examination stamped ABCO_76846, filed herewith as Exhibit 32;
33. February 18, 2022 text correspondence obtained from the forensic examination stamped ABCO_57181, filed herewith as Exhibit 33;
34. May 9, 2022 text correspondence obtained from the forensic examination stamped ABCO_64537, filed herewith as Exhibit 34;
35. May 12, 2022 text correspondence obtained from the forensic examination stamped ABCO_4912, filed herewith as Exhibit 35;

36. November 16, 2022 letter from Plaintiff's counsel (filed as Exhibit 8 to Mr. Feagin's deposition), filed herewith as Exhibit 36;

37. January 19, 2022 text correspondence obtained from the forensic examination stamped ABCO_56778, filed herewith as Exhibit 37;

38. March 29-30, 2022 text correspondence obtained from the forensic examination stamped ABCO_49640, filed herewith as Exhibit 38;

39. April 11, 2022 text correspondence obtained from the forensic examination stamped ABCO_15879, filed herewith as Exhibit 39;

40. June 12, 2022 text correspondence obtained from the forensic examination stamped ABCO_57927, filed herewith as Exhibit 40;

41. August 3, 2023 text correspondence obtained from the forensic examination stamped ABCO_72164, filed herewith as Exhibit 41;

42. October 4, 2023 email correspondence obtained from the forensic examination stamped ABCO_68903, filed herewith as Exhibit 42;

43. August 14 2023 email correspondence obtained from the forensic examination stamped ABCO_68884, filed herewith as Exhibit 43;

44. November 10, 2022 text correspondence obtained from the forensic examination stamped ABCO_75943, filed herewith as Exhibit 44;

45. August 8, 2023 email correspondence obtained from the forensic examination stamped ABCO_7838, filed herewith as Exhibit 45;

46. August 3, 2023 text correspondence obtained from the forensic examination stamped ABCO_14931, filed herewith as Exhibit 46;

47. Defendant Maupin's 2d Amended & Supp. discovery responses, filed herewith as Exhibit 47;
48. ABCO's 5th Supp. discovery responses, filed herewith as Exhibit 48;
49. Defendant Harrell's 3d Supp. discovery responses, filed herewith as Exhibit 49;
50. Defendant Harrell's 1st Supp. discovery responses, filed herewith as Exhibit 50;
51. May 31, 2022 text correspondence obtained from the forensic examination stamped ABCO_58167, filed herewith as Exhibit 51;
52. Defendant Feagin's 3d Supp. discovery responses, filed herewith as Exhibit 52; and
53. June 3, 2022 email correspondence obtained from the forensic examination stamped ABCO_37245, filed herewith as Exhibit 53.
54. March 9, 2022 text messages between Defendants Maupin and Harrell and Virgil Wade Etherton obtained from the forensic examination stamped ABCO_0033320-0033323 and made Exhibit 31 to Mr. Maupin's deposition, filed herewith as Exhibit 54.
55. March 1, 2022 text messages between Defendants Maupin and Gillespie obtained from the forensic examination stamped ABCO_0034180-0034182 and made Exhibit 36 to Mr. Maupin's deposition, filed herewith as Exhibit 55.
56. January 12, 2022 text messages between Defendant Maupin and Virgil Wade Etherton obtained from the forensic examination stamped ABCO_0051601-0051602 and made Exhibit 37 to Mr. Maupin's deposition, filed herewith as Exhibit 56.
57. January 13, 2022 text messages between Defendants Maupin and Brown obtained from the forensic examination stamped ABCO_0055917-0055919 and made Exhibit 42 to Mr. Maupin's deposition, filed herewith as Exhibit 57.

58. April 12, 2022 text messages between Defendants Maupin and Brown obtained from the forensic examination stamped ABCO_0033372-0033375 and made Exhibit 44 to Mr. Maupin's deposition, filed herewith as Exhibit 58.

59. February 2022 emails between Defendants Maupin and Hershberger and a commercial real estate agent obtained from the forensic examination stamped ABCO_0022129-0022135 and made Exhibit 48 to Mr. Maupin's deposition, filed herewith as Exhibit 59.

60. ABCO's 1st Supp. discovery responses, filed herewith as Exhibit 60.

61. ABCO's 2nd Supp. discovery responses, filed herewith as Exhibit 61.

62. Chart detailing certain discrepancies in Defendant' discovery responses, filed herewith as Exhibit 62.

Respectfully submitted,

BUTLER SNOW LLP

/s/ David L. Johnson

David L. Johnson, BPR #18732
John H. Dollarhide, BPR #40041
150 3rd Avenue South, Suite 1600
Nashville, TN 37201
(615) 651-6700
david.johnson@butlersnow.com
john.dollarhide@butlersnow.com

Daniel W. Van Horn, BPR #18940
6075 Poplar Ave., Suite 500
Memphis, TN 38119
(901) 680-7200
Danny.VanHorn@butlersnow.com

Attorneys for Plaintiff

CERTIFICATE OF COUNSEL

In accordance with Local Rule 7.2(a)(1)(B), I certify that Attorney John Dollarhide and I conferred with Attorneys Thomas Pasternak, Benjamin Morrell, and Elizabeth Wellhausen via telephone on February 24, 2025, but were unable to reach agreement.

/s/ David L. Johnson
David L. Johnson

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2025, I filed the foregoing with the Court using the ECF system, which will provide notice and a copy to counsel of record:

Thomas G. Pasternak (admitted pro hac vice)
Benjamin S. Morrell (TBPR No. 35480)
TAFT STETTINIUS & HOLLISTER LLP
111 East Wacker Drive, Suite 2600
Chicago, IL 60601
Telephone: (312) 527-4000
Facsimile: (312) 527-4011
tpasternak@taftlaw.com
bmorrell@taftlaw.com
Attorneys for Defendants

And to the following via U.S. Mail and email.

Brian L. Lassen
Aleyna Lassen
1405 N. Fort Grant Road
Willcox, AZ 85643
wilcoxbuildings@pm.me

/s/ David L. Johnson
David L. Johnson